

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
\_\_\_\_\_ DIVISION

_____	)	C.A. No. _____
	)	
Plaintiff(s),	)	
	)	<b>ORDER</b>
vs.	)	
	)	
_____	)	
	)	
Defendant(s).	)	

This action is based in whole or in part on the Racketeer Influenced and Corrupt Organizations Act ("RICO") codified at 18 U.S.C. § 961 *et seq.* Such claims tend to expand the scope of a given case, increase discovery, lead to numerous time-consuming and costly motions to dismiss, and hinder possible settlement of litigation. This order is not intended to minimize valid claims or to render their prosecution more difficult. Rather, it is intended to assist the parties and the court in separating those claims which are arguably meritorious from those which patently are not.

Therefore, it is hereby

**ORDERED** that plaintiff shall file, within 25 days of the date of this order, a RICO case statement. This statement shall include the facts upon which plaintiff relies to initiate its RICO claim(s), as a result of the "reasonable inquiry" required by Fed. R. Civ. P. 11. In particular, this statement shall use the numbers and letters set forth in the attached form entitled "RICO Case Statement." Each interrogatory shall be set forth immediately prior to the answer thereto. The statement shall set forth in detail and with specificity the information requested in the form. The court shall construe the RICO case statement as an amendment to the pleadings. Failure to comply with the provisions of this order subjects the case to dismissal.

It is further hereby

**ORDERED** that counsel for plaintiff serve a copy of the RICO case statement on all parties.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
\_\_\_\_\_, 2003

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
\_\_\_\_\_ DIVISION

	)	C.A. No. _____
	)	
Plaintiff(s),	)	
	)	
vs.	)	<b>RICO CASE STATEMENT</b>
	)	
	)	
Defendant(s).	)	
	)	

1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. § 1962(a), (b), (c), and/or (d).
2. List all defendants and state the alleged misconduct and basis of liability of each defendant.
3. List all alleged wrongdoers, other than any defendant listed above, and state the alleged misconduct of each wrongdoer.
4. List the alleged victims and state how each victim was allegedly injured.
5. Describe in detail the pattern of racketeering activities or collection of unlawful debts alleged for each RICO claim. The description of the pattern of racketeering shall include the following information:
  - a. List the alleged predicate acts and the specific statutes that were allegedly violated;
  - b. Provide the date of each predicate act, the participants in each predicate act, and a description of the facts constituting each predicate act;
  - c. If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." Fed. R. Civ. P. 9(b). Identify the time, place, and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

d. State whether there has been a criminal conviction for violation of any predicate act;  
e. State whether civil litigation has resulted in a judgment with regard to any predicate act;

f. Describe how the predicate acts form a "pattern of racketeering activity"; and  
g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe the alleged relationship and common plan in detail.

6. Describe in detail the alleged "enterprise" for each RICO claim. A description of the enterprise shall include the following: (a) the names of the individuals, partnerships, corporations, associations, or other legal entities which allegedly constitute the enterprise; (b) a description of the structure, purpose, function, and course of conduct of the enterprise; (c) a statement of whether any defendant is an employee, officer, or director of the alleged enterprise; (d) a statement of whether any defendant is associated with the alleged enterprise; (e) a statement of whether plaintiff is alleging that any defendant is an individual or entity separate from the alleged enterprise or that any defendant is the enterprise itself, or a member of the enterprise; (f) if any defendant is alleged to be the enterprise itself, or a member of the enterprise, an explanation of whether such defendant is a perpetrator, a passive instrument, or a victim of the alleged racketeering activity.

7. State and describe in detail whether plaintiff is alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual daily activities of the enterprise, if at all.

9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a):
  - a. State who received the income derived from the pattern of racketeering activity or through the collection of unlawful debt; and
  - b. Describe the use or investment of such income.
12. If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.
13. If the complaint alleges a violation of 18 U.S.C. § 1962(c):
  - a. State who is employed by or associated with the alleged enterprise; and
  - b. State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).
14. If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the facts showing the existence of the alleged conspiracy.
15. Describe the alleged injury to business or property.
16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.
17. List the damages sustained by reason of the violation of 18 U.S.C. § 1962, indicating the amount for which each defendant is allegedly liable.
18. List all other federal causes of action, if any, and provide the relevant statute numbers.
19. List all state claims in the case pursuant to supplemental jurisdiction, if any.
20. Provide a brief outline of any additional information that you feel would be helpful to the court in processing your RICO claims.

DATED:

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Attorney for Plaintiff(s)